

MELLINGER KARTZMAN LLC

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Attorneys for Steven P. Kartzman, Chapter 7 Trustee



Order Filed on April 8, 2020
by Clerk
U.S. Bankruptcy Court
District of New Jersey

In re:

**MICHAEL KALFUS AND
ROBIN KALFUS,**

Debtor.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Case No. 18-13396 (VFP)

Chapter 7

Honorable Vincent F. Papalia

**ORDER DIRECTING TURNOVER OF PROPERTY OF THE ESTATE TO
THE TRUSTEE PURSUANT TO 11 U.S.C. § 542(a), AND DENYING CROSS-
MOTION FILED BY THE DEBTORS TO COMPEL ABANDONMENT**

The relief set forth on the following page, numbered two (2) through three (3), is hereby

ORDERED.

DATED: April 8, 2020

A handwritten signature in black ink, appearing to read "Vincent F. Papalia".

Honorable Vincent F. Papalia
United States Bankruptcy Judge

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a), and Denying Cross-Motion Filed by the Debtors to Compel Abandonment

This matter having been brought before the Court by motion of Steven P. Kartzman, the court-appointed Chapter 7 Trustee (the “Trustee”), by and through counsel, Mellinger Kartzman LLC, for entry of an order directing turnover of property of the estate to the Trustee pursuant to 11 U.S.C. § 542(a) (the “Motion”); and Michael and Robin Kalfus (the “Debtors”) having filed opposition to the Motion (the “Opposition”) [Dkt. No. 160]; and the Trustee having filed a reply to the Debtors’ Opposition (the “Reply”) [Dkt. No. 170]; and a hearing having been conducted on the Motion on February 25, 2020; and the Court having entered an Interim Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a) (the “Interim Order”) [Dkt. No. 171] on March 4, 2020; and the Debtors having filed a Cross-Motion Compelling Chapter 7 Trustee to Abandon Assets (the “Cross-Motion”) [Dkt. No. 183]; and the Trustee having filed opposition to the Cross-Motion [Dkt. No. 189]; and a further hearing having been conducted on the Motion and the Cross-Motion on March 31, 2020; and it appearing that notice of the Motion has been duly served upon the parties concerned; and good and sufficient cause existing for entering the within Order; for the reasons on the record on both hearing dates, it is hereby

ORDERED AS FOLLOWS:

1. The Interim Order be, and is hereby, affirmed and incorporated herein by reference.
2. The Cross-Motion is denied.
3. The Debtors be, and are hereby, directed to turnover over to the Trustee the rents in excess of expenses received by the Debtors, post-petition, from the Debtors’ real property

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a), and Denying Cross-Motion Filed by the Debtors to Compel Abandonment

located at 106 Brookside Drive, Killington, Vermont (the “Rental Property”), and acknowledged by the Debtor’s in the Cross-Motion, in the sum of at least \$32,369.51 (the “Base Turnover Amount”), within 15 days of the entry of this Order, to the extent such funds are in either or both of the Debtors' possession, custody or control.

4. To the extent that the Debtors fail to or are otherwise unable comply with the provisions of this Order, the Trustee may file a motion for entry of a judgment for a sum certain supported by a certification setting forth the Debtors' non-compliance, the basis on which the sum certain was calculated and any other matters the Trustee deems appropriate, including (without limitation) a legal memorandum in support of any additional relief (e.g., attorneys fees) sought.

5. The Debtors are not entitled to an exemption as to any of the Base Turnover Amount.

6. The Trustee and the Debtors shall make reasonable efforts to review and address the additional expenses, as provided in the Cross-Motion, to determine if additional amounts must be turned over as net rent in addition to the Base Turnover Amount. To the extent that the parties are unable to come to a resolution with respect to the additional expenses, the parties may submit certification(s) to the Court addressing the unresolved issues and a hearing shall be set by the Court with respect to the same. The Trustee reserves the right to pursue turnover of additional amounts of net rent, and the Debtors reserve the right to oppose a turnover of additional net rent.

7. The Trustee shall serve a copy of this Order on all interested parties within five (5) days from the date of entry.

In re:
Michael Kalfus
Robin Kalfus
Debtors

Case No. 18-13396-VFP
Chapter 7

CERTIFICATE OF NOTICE

District/off: 0312-2

User: admin
Form ID: pdf903

Page 1 of 2
Total Noticed: 1

Date Rcvd: Apr 08, 2020

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Apr 10, 2020.
db/jdb +Michael Kalfus, Robin Kalfus, 7 Lakeview Terrace, Montville, NJ 07045-9158

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 10, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on April 8, 2020 at the address(es) listed below:

Anthony Sodono, III on behalf of Defendant Michael Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Defendant Robin Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Debtor Michael Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Defendant Michael and Robin Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Joint Debtor Robin Kalfus asodono@msbnj.com
 Caitlin Conklin on behalf of Creditor Lakeland Bank caitlin.conklin@klgates.com
 Charles G. Wohlrab on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE (CWALT 2005-J9) cwohrlab@LOGS.com, njbankruptcynotifications@logs.com
 Charles Michael Rowan on behalf of Creditor Albert Kenney mrowan@saul.com
 Christian Del Toro on behalf of Creditor Haven Savings Bank cdeltoro@martonelaw.com, bky@martonelaw.com
 David Gerardi on behalf of U.S. Trustee U.S. Trustee david.gerardi@usdoj.gov
 Denise E. Carlon on behalf of Creditor VW Credit Leasing, Ltd dcarlon@kmlawgroup.com, bkgroup@kmlawgroup.com
 Eugene Killian, Jr. on behalf of Defendant Syracuse University ekillian@tkfpc.com, lstudwell@tkfpc.com;rmilun@tkfpc.com
 Forrest Scott Turkish on behalf of Attorney Forrest Turkish fsturkish@aol.com
 Frank J Martone on behalf of Creditor Haven Savings Bank bky@martonelaw.com
 Guillermo Gonzalez on behalf of Joint Debtor Robin Kalfus ggonzalez@scuramealey.com, ecfbkfilings@scuramealey.com;mmack@scura.com;lrichard@scura.com;martinezcr93878@notify.bestcase.com;agouveia@scura.com
 Guillermo Gonzalez on behalf of Debtor Michael Kalfus ggonzalez@scuramealey.com, ecfbkfilings@scuramealey.com;mmack@scura.com;lrichard@scura.com;martinezcr93878@notify.bestcase.com;agouveia@scura.com
 John O'Boyle on behalf of Plaintiff Osborn Financial Group, LLC joboyale@norgaardfirm.com, sferreira@norgaardfirm.com;l84grandno@gmail.com;kcimmino@norgaardfirm.com
 John A. Fialcowitz on behalf of Plaintiff Fishman consulting group, llc john@fialcowitzlaw.com
 Joseph L. Schwartz on behalf of Interested Party The County of Morris, Morris County Sheriff's Office jschwartz@riker.com
 Joseph R Zapata, Jr. on behalf of Plaintiff Steven P. Kartzman jzapata@msklaw.net
 Joseph R Zapata, Jr. on behalf of Trustee Steven P. Kartzman jzapata@msklaw.net
 Judah B Loewenstein on behalf of Trustee Steven P. Kartzman jloewenstein@msklaw.net
 Mark E. Hall on behalf of Mediator Mark Hall mhall@foxrothschild.com, cbrown@foxrothschild.com
 Matteo Percontino on behalf of Creditor Lakeland Bank matt.percontino@cohnreznick.com, matteo.percontino@klgates.com
 Melissa S DiCerbo on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE (CWALT 2005-J9) nj-ecfmail@mw-c-law.com, nj-ecfmail@ecf.courtdrive.com
 Rebecca Ann Solarz on behalf of Creditor VW Credit Leasing, Ltd rsolarz@kmlawgroup.com

District/off: 0312-2

User: admin
Form ID: pdf903

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Total Noticed: 1

Date Rcvd: Apr 08, 2020

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system (continued)

Richard James Tracy, III on behalf of Creditor The Bank of New York Mellon, FKA The Bank of New York, as Trustee for the Certificateholders of Cwalt Alternative Loan Trust 2005-J9, Mortgage Pass-Through Certificates, Series 2005-J9 by its servicer rtracy@hillwallack.com, tshariff@schillerknapp.com; kcollins@schillerknapp.com; ahight@schillerknapp.com
Sari Blair Placona on behalf of Debtor Michael Kalfus splacona@msbnj.com
Sari Blair Placona on behalf of Joint Debtor Robin Kalfus splacona@msbnj.com
Steven P. Kartzman on behalf of Trustee Steven P. Kartzman kartztee@optonline.net, jzapata@msklaw.net; njl6@ecfcbis.com; jloewenstein@msklaw.net; denisew@msklaw.net
Steven P. Kartzman on behalf of Plaintiff Steven P. Kartzman kartztee@optonline.net, jzapata@msklaw.net; njl6@ecfcbis.com; jloewenstein@msklaw.net; denisew@msklaw.net
Steven P. Kartzman kartztee@optonline.net, jzapata@msklaw.net; njl6@ecfcbis.com; jloewenstein@msklaw.net; denisew@msklaw.net
Steven P. Kelly on behalf of Defendant American Express National Bank skelly@sterneisenberg.com, bkecf@sterneisenberg.com
U.S. Trustee USTPRegion03.NE.ECF@usdoj.gov
William L. Waldman on behalf of Creditor Lakeland Bank william.waldman@klgates.com, waldmanw@aol.com

TOTAL: 35